No. 7612-3-Lab-67/25425.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, inrespect of the dispute between the workmen and management of M/s Bawa Iron & Steel Works Ltd., Sonepat.

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 40 of 1967

Between
THE WORKMEN AND THE MANAGEMENT OF M/S BAWA IRON & STEEL WORKS
LTD., SONEPAT

Present:—
Shri Thanu Ram, claimant in person.
Nemo, for the management.

AWARD

Shri Thanu Ram was employed as a Foreman in M/s Bawa Iron & Steel Works Ltd., Sonepat and was found guilty of misconduct and was dismissed from service. The dismissal was conveyed to him,—vide letter No. BIS/P/342, dated 28th October, 1966. The workman claims that the dismissal is illegal in as much as the findings of the Enquiry Officer was not supplied to him and he was not given a reasonable opportunity to defend himself. The enquiry is said to be in contravention of all principles of natural justice. This raised an industrial dispute and the Government of Haryana, in exercise of the powers conferred on them by clause (c) of isub-section (1) of section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947, referred dispute for adjudication,—vide Government Notification No. 154-SFIII-Lab-67, dated 17th March, 1967. The dispute referred to this Court is as under:—

Whether the termination of the services of Shri Thanu Ram is justified and in order? If not, to what relief he is entitled?

On receipt of the reference a notice was issued to M/s Bawa Iron&Steel Works Ltd., Sonepat, to appear in this Court on 22nd July, 1967, at 10.00 at the P.W.D. Rest-House, Sonepat. This notice was sent under registered cover acknowledgement due. Shri Chhajju Mal an office bearer of the General Workers Union Regd., Mandi Sonepat, appeared on behalf of the worker. No body appeared on behalf of the management. The proceedings were accordingly taken exparte against the management under rule 22 of the Industrial Disputes (Punjab) Rules, 1958 and the case was adjourned for exparte evidence to 1st August, 1967. On the date fixed the workman Shri Thanu Ram appeared in person. No body was present on behalf of the management even on the adjourned date. The exparte evidence of Shri Thanu Ram was recorded. He has stated that he has been working with the respondent concern since 1961 as a foreman at Rs 350 P.M. He has further stated that on 5th September, 1966, he went to the respondent factory the management refused to take him on duty and dismissed him. He has also stated that no notice or charge-sheet was given to him before he was dismissed. It is thus clear that the dismissal of Shri Thanu Ram cannot be said to be justified and in order. He is, therefore, entitled to be reinstated with continuity of service and full back wages. I direct accordingly. The workman has not proved what expenses had been incurred by him in these proceedings so I make no order as to costs.

Dated 11th August, 1967.

No. 1249, dated 12th August, 1967

P. N. THUKRAL, Presiding Officer, Labour Court, Rohtak.

The award is submitted to the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL, Presiding Officer, Labour Court, Rohtak.

No. 7575-3-Lah-67/25427.— In pursuance of the provision s of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, in respect of the dispute between the workmen and management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri.

BEFORE SHRI K.L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, CHANDIGARH

REFERENCE No. 45 of 1964

Between

THE WORKMEN AND THE MANAGEMENT OF M/S DALMIA DADRI CEMENT LTD ... CHARKHI DADRI

REFERENCE No. 88 of 1965

Between

THE WORKMEN AND THE MANAGEMENT OF M/S DALMIA DADRI CEMENT LTD., CHARKHI DADRI

Present. - Shri Virendra Kaushik and Dr. Anand Parkash, for the management.

Shri G.C. Joshi and Shri Satish Loomba, for the workmen.

AWARD

M/s Dalmia Dadri Cement Ltd., Charkhi Dadri, is one of the biggest units for the manufacture of cement in Northern India. It has about 700 permanent workmen and about 200 casual workmen besides some others who are working on contract system and some who are merely temporary. There are three or four trade unions of the workmen of this factory. One of them is known as the Dalmia Dadri Cement Factory Men's Union, and another is known as Cement Factory Workers Union. It is not necessary to mention the names of the other unions because the references in question have not been made at their instance.

The Dalmia Dadri Cement Factory Men's Union served a demand notice on the management that 95 workmen whose list they attached with their demand notice should be made permanent and should not be retained as merely casual workmen. They also made a demand that the break system should be stopped and the persons mentioned in Annexure 'B' attached with the demand notice must be deemed to have a continuous service. Later they served another demand notice calling upon the management to abolish the contract system on branding and making valves in gunny bags. They also said in this demand notice that the action of the management in terminating the services of workmen in list 'C' and 'D' attached with their notice was not justified and that the said workmen should be taken back in service. The said demands having not been satisfied and the conciliation proceedings having presumably failed the Punjab Government referred the Industrial Dispute arising out of the said notices to the In lustrial Tribunal, Punjab, under clause (d) of sub-section I of section 10 of the Industrial Disputes Act, 1947 vide their notification No. 239-SF-3LabI/64 12680, dated 26th May, 1964. It appears that the Cement Factory Workers Union also served a demand notice on the management calling upon them to make 30 more workmen permanent and annexed a list of the same along with their notice. The Punjab Government issued a corrigendum adding the names of these 30 workmen also to the 95 which had previously been mentioned in Annexure 'A' to the aforesaid Notification. This action of the Government was challenged in the High Court by means of a writ petition and the High Court found that the Government was not empowered to issue the said corrigendum. The Punjab Government then issued another notification referring the dispute of the aforesaid 30 persons for adjudication to the same Industrial Tribunal and this was by Notification No. 458-SF-IIILab-I-65/25541, dated 18th September, 1965. The 4 items of dispute which are mentioned in the previous notification of the Government are as under :-

- (1) Whether the workers as per list as Annexure 'A' should be made permanent by the management of the factory?
- (2) Whether the management be required to do away with the practice of bring about breaks in the services of the workers and whether the services of the workers as per list Annexure'B'should be treated as continuous? If so, with what details?
- (3) Whether the management be required to abolish the contract system on branding andmaking valves in gunny bags and further whether the management be required to take the workmen as per list as Annexure 'C' on permanent roll of the factory and to pay them wages in accordance with the recommendations of the Central Wage Board for cement industry? If so, with what details?
- (4) Whether the action of the management in terminating the services of workmen as per list as Annexure 'B' from 1st January, 1964 is justified and in order? If not, to what relief they are entitled?

The item of dispute which is mentioned in the subsequent notification of the Government is as under:-

1. Whether the workers as per list at Annexure 'A' should be made permanent by the management of the factory? If so, with what details?

The reference regarding the previous notification was registered by the Industrial Tribunal as reference No. 45 of 1964 and the reference arising out of the subsequent netification was registered as reference No. 88 of 1965.

Usual notices were issued by the said Tribunal to the parties and in response to the same the workmen in both the cases filed their statements of claims and the management filed their written statements to the same. The management took several preliminary objections in the written statement in reference No. 45 of 1964 and the Tribunal framed 4 preliminary issues in respect of the same. The said issues are as under:—

- (1) Is the subsequent addition to the list (Annexure 'A' to the previous notification) by the Government Notification No. 239-SF-3Lab-I-64/18505, dated 10th August, 1964 ultra vires the powers of the Government? What is its effect on the present notification?
- (2) Can not the demand relating to 25 workmen given in Annexure A'of the reference (as later modified by the Government by the notification mentioned in Issue No. 1 beadjusted upon for the reasons given by the management in their preliminary objections under demand No. 1 in the written statement as also the preliminary objections mentioned under demand No. 1 of the subsequent statement?
- (3) Is the reference qua demand Nos. 3 and 4 of the reference invalid and ultra vires the powers of the Government for reasons stated in the preliminary objection under demands Nos. 3 and 4 of the written statement?
- (4) Cannot the demand covered by item No. 2 of the reference be raised for the reasons given in the preliminary objection under demand No. 2 of the written statement?

Issue No. 1 did not fall for decision because the High Court in the meantime had decided this mattere. It was later felt that Issue Nos. 2,3 and 4 could not be properly decided without evidence being led in respect of the same along with the evidence on merits. The parties were then called upon to lead their evidence on the said issues as also on the 4 issues on merits which were precisely the same as the four items of dispute as mentioned in the

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notification. No separate issue was framed in reference No. 88 of 1965 because it was admitted by the rattices that the point covered by item of dispute in this reference was identically the same as covered by item No. 1 of the dispute of the reference No. 45 of 1964. The previous reference related to 95 workmen who were then in the list of the casual workmen while the second reference related to another 30 workmen who were also in the same list of the casual workmen. The rights and relief claimed for both of them were common and it was stated by the parties that evidence would also be common in both the cases in so far as this matter was concerned. ceedings in the second reference were, therefore, consolidated with the previous reference in so far as item No. 1 of the previous reference was concerned. The Industrial Tribunal, Punjab, recorded a part of the evidence in both the references but before the evidence could conclude, Punjab Reorganisation Act, 1966, came into force and by reason of section 93 of the said Act both the references stood transferred to this Tribunal. I recorded the rest of the evidence of both the parties and also heard the arguments of their representatives. My findings on the various preliminary issues in reference No. 45 of 1964 are as follows:-

Issue No. 1.—No finding need be recorded on this issue as the matter has already been decided by the Punjab High Court and the subsequent addition to the list Annexure 'A' has been held to be ultra vires the powers of the Government.

Issue No. 2.—The only objection pressed by the management in respect of this issue is that two settlements with regard to the casual workmen were entered into between the workmen and the management and they are (1) Ex. R.1, dated 9th September, 1963 and (2) Ex. R.2, dated 10th September, 1963. The former was effected between the management on the one hand and Dalmia Dadri Cement Factory Men's Union on the other hand while the latter was effected between the management on the one hand and the Cement Factory Workers Union on the other hand. I have carefully gone through the said two settlements and am definitely of the opinion that none of them bars the present claim in the two references now in question. By the said settlements the terms and conditions of service of the casual workmen were settled but there was no provision made in either of them that none of the casual workmen will ever be able to claim to be made a permanent workman. The settlements only decided what wages the casual workmen will get and what other amenities they will be entitled to. The said terms were binding on the men only as long as the workmen remained as the casual workers. The present claim does not touch the conditions of service of the casual workmen and it is limited to the point that some of the workmen who are now casual workmen should be brought in the category of the permanent workmen. I decide this issue against the management

Issue No. 3.—The case of the management is that they abolished the contract system on the 25th May,

1964 and that the present demand for abolition of the contract system cannot, therefore, be gone into. This objection has no force whatever. The settlement Ex. R.32 effected on 25th May, 1964 between the management and a trade union of the workmen styled as Cement Factory Workers Union mentions that the contract system had been abolished and that five workmen who were then working under the contractor had been taken by the management in their regular employment. It must, however, be noted that the demand in respect of this matter was originally raised by another trade union known as the Dalmia Dadri Cement Factory Men's Union on 7th January, 1964. of the said union was that the management had already agreed to abolish the contract system in respect of the labour employed on branding and making valves in the gunny bags as per recommendations of the Cement Industry Wage Board contained in para No. 4 of the printed report of the said Board. They had further alleged that the management had entered into a settlement with the said union during the pendency of reference No. 45 of 1961 that they would not employ any contract labour contrary to the recommendations of the Wage Board, and that the Industrial Tribunal, Punjab, had made an award on 26th August, 1963 directing them to act on the said settle-The case of the said union now is that the contract labour must be deemed to have been abolished at least from 26th August, 1963, i.e., the date of the award above-mentioned. Their case further is that the contractor and the workmen under him who were then (i.e., on 26th August, 1963) doing the job of branding and making valves should have been taken by the management on their regular cadre but the management had not done so. On 7th January, 1964 the said union served a notice on the management calling upon them to take 10 persons mentioned in Annexures 'C' and 'D' to the present reference on the cadre of their regular workmen. It is this demand which was referred to the Tribunal by the Punjab Government. The subsequent action of the management in entering into settlement Ex. R. 32 does not bar the claim as put forth by the said union but it is certainly a matter which can be taken into consideration while deciding the dispute on its merits. This issue is in the circumstances decided against the management.

Issue No. 4.—The only preliminary objection raised by the management with regard to item No. 2 of the dispute is in the following words :-

"The persons covered by this demand are temporary workers who have been appointed as such. They have accepted their appointments on these terms and no dispute on their behalf can be raised,"

No arguments were addressed by the management in respect of this issue and no attempt at all was made to support the preliminary objection covered by this issue. The preliminary objection has obviously no force inasmuch as there is no legal bar to a dipute being raised even with regard to temporary workers, more especially when the dispute is that there should be no breaks in their service for as long as the service of each of them continues. The issue is decided against the management.

Having disposed off the preliminary issues I now proceed to record my findings on the various items of dispute:-

Item of dispute No. 1 in Reference No. 45 of 1964 and item of dispute in Reference No. 88 of 1965.

As already pointed out the dispute in both the references qua this item is of the same nature. The case of the workmen is that the management is retaining about more than 200 persons on the list of their casual workmen. All of them have to report every day for duty and almost all of them are put on duty every day by the management. This system is prevailing for the last several years and most of the workmen who are on that list have been continuously on the said list for all these years. The workmen contend that this treatment of the management towards the casual workmen is extremely improper and amounts to unfair labour plactice. Although most of the casual workmen are being employed each day, they are being deprived of several amenities which the permanent

workmen enjoy. Some of these casual workmen have been put in one category and some others in another category and these categories have come into existence by means of settlements Ex. R. 1 and R. 2 Workmen of one category of them are being paid higher wages and are being allowed some of the amenities which the permanent workmen enjoy, while the workmen of the other category are being paid less wages and are not being allowed any amenity which the permanent workmen or even the other category of casual workmen enjoy. It is not denied by the management that about 200 workmen are being retained as casual workmen. It is also not denied by the management that almost all of them have to report every morning and some of them have to report at the time of beginning of all the three shifts every day. It is also not denied by the management that most of them are employed every day. In fact the Head Time Keeper of the management has stated as a witness for the menagement that almost all the casual workmen are employed every day and only 2 to 4 of them are sometimes sent back. The evidence of the Head Time Keeper and that of Mr. Ishwar Nath Deputy Chief Engineer of the concern is clear on the point that almost all the casual workmen and needed almost every day and are actually employed almost every day. the management to file lists to show how many of these casual workmen were really employed on each day in 1964, 1965 and 1966. The management filed the lists relating to the years 1964 and 1966 but not with regard to 1965. The said lists also show that almost all the casual workmen were employed on almost every day by the management. It seems to me that it is altogether unjust on the part of the management to keep such a huge number of workmen on their list of the casual workmen for several years when actually they have been employed more or less regularly during all the time and they have actually worked almost all the number of days in each year. fact that the management had to employ almost all of them every day proves that the management needs these work-men permanently but has chosen to keep them on the casual list probably with a view to deprive them of the ameni-ties enjoyable by the permanent workmen. It is admitted by Shri Pat Ram, Head Time Keeper of the management that the seniority of the casual workmen has been determined by means of settlements R-1 and R-2 and about 140 of such workmen are those who have been recognised to be fit for being placed in a higher category to whom wages would be paid in accordance with the recommendations of the Wage Board. I think the best course will be to make only those casual workmen permanent who are already in that category because there can be no doubt about their seniority and about their fitness for being selected as permanent workmen. In para 1 1 of his affidavit Ex. R-71, Shri Ishwar Nath has stated as under —

"That out of the workers in the present references those at Serial Nos. (in reference No. 45 of 1964) 11 to 17, 19 to 40, 42, 43, 45 to 54, 56 to 59, 63, 64, 68 to 76, 81, 82,85, 87 and 91 (in reference No. 88 of 1965) 5 to 18, 20, 22, 26, 27 and 28 are getting the wages and other amenities and facilities as provided under the aforesaid settlement."

Settlements referred to in the aforesaid paragraph of the affidavit of Shri Ishwar Nath are the same as Ex. R. 1 and R. 2 and this is clear from the other paragraphs of the affidavit. The persons mentioned in this paragraph therefore are those who should immediately be brought on the permanent cadre of the workmen in the establishment in question. I direct the management to act accordingly and to bring the aforesaid persons on their permanent cadre of the workmen, with effect from the date when this award is published in the official gazette. They will for the present be deemed to be unskilled workmen and will be paid wages as such on the scale given in the recommendations of the Wage Board.

Apart form the aforesaid workmen Banta Singh, Ravi Shanker, Tarlok Singh shown at numbers 1, 2 and 3 in annexure 2 to the affidavit of Shri Pat Ram Head Time-Keeper and Mai Chand mentioned at No. 62 in the same annexure are admittedly semi-skilled workmen. The names of these 4 persons are also mentioned in annexure 'A' to reference No. 45 of 1964. Similarly Sabuddin, Mohinder Singh, Ginder Singh, Banwari Lal, Chandan Singh, Ram Kumar and Nazamudin are shown as semi-skilled workmen in annexure 2 to the affidavit of Shri Pat Ram. The names of there persons are mentioned in annexure 'A' to reference No. 88 of 1965. All these eleven persons would also be made permanent. These persons are not mentioned in R 61 and R-62 because thesaid two settlements related only to the unskilled workmen while these persons were semi-skilled. All the semi-skilled workmen whose names have been mentioned above would also be brought on the list of the permanent workmen with effect from the date of the application of this award in the official gazette and I direct the management accordingly.

Item No. 2 of the dispute in reference No. 45 of 1964.—This item of dispute relates to 15 workmen whose names are mentioned in annexure 'B' to the reference. It is admitted by the management that out of these 15 persons 11 are continously in their service ever since each of them joined the concern. They are Banwari Lal, Lachhmi Narain, Sadhu Ram, Sardara, Daya Kishan, Harbans Singh, Darbara Singh, Niranjan Singh, Surat Singh, Teja Singh No. 2 and Teja Singh No. 3. Both the parties admit that there has been no break in their service. It is also admitted by both the parties that the rest of the 4 workmen mentioned in annexure 'B' namely, Puran, Dewan Chand, Daya Nand and Om Parkash are no longer in the service of the management and no relief is claimed by the workmen with regard to these four persons. There is no de mand made by the workmen that the above-mentioned 11 persons whose service is continuous should be made permanent and at any rate no reference has been made to me on this point. Item No. 2 of reference envisages) two points which are:—

- (1) whether the management be required to do away with the practice of bringing about the breaks in the services of the workers; and
- (2) whether the services of the workers as per list Annexure 'B' should be treated as continuous. If so, with what details?

Obviously I cannot issue general directions to the management on the first portion of the reference. With regard to the second portion the management admits that the service of the 11 workmen mentioned above should be treated as continuous and they are willing to treat the same as such. No details need be given with regard to the treatment of the service as continuous because the word 'continuous' is self explanatory, I, therefore, direct the management to treat the aforesaid 11 workmen as being in their continuous service from the date each of them joined the service. The demand qua the other four workmen namely Puran, Surat Singh, Daya Nand and Om Parkash is dismissed as they are not in service and the question of treating their service as continuous cannot possibly arise.

Item No. 3 and 4 of reference No. 45 of 1964.—These two items can be disposed off jointly because Annexture 'C' and 'D' to the notification of the Government making this reference are identically the same. The case of the workmen is that the Wage Board recommended the abolition of the contract system of Labour on branding and

making valves in gunny bags, and the management entered into a settlement with the Dalmia Dadri Cement Factory Mens Union during the pendency of reference No. 45 of 1961 that they would abolish the contract system in respect of every matter on which the Wages Board has so directed. In fact the Industrial Tribunal, Punjab gave an award directing the management to do so. According to the said union there were 10 workmen who were at that time employed on contract system on the aforesaid jobs and names of those 10 persons are given in Annexture 'C' to the notification making the reference. It appears that in spite of the Wage Board Recommendations and in spite of assurance in the settlement of dispute in reference No. 45 of 1961 and in spite of the award, the management continued the contract system of labour on branding and making valves till the 25th of May, 1964. It further appears that on 1st January, 1964, the management removed the previous contractor Sadhu Ram as also the workmen employed by him and employed one Jai Ram as a contractor who brought his own workmen. The management then seems to have entered into a so called settlement on 25th May, 1964 with another trade union abolishing the contract system and absorbing the five workmen of Jai Ram into their services. The previous workmen who were working on the contract system at all the three relevant times namely:

(1) when the Wage Board Recommendations abolishing the contract system were made;

(2) when the management entered into a settlement assuring the workmen during the proceedings of reference No. 45 of 1961 that they would abolish the contract system which was contrary to the Wage Board Recommendations and that they had in fact so abolished it; and

(3) the date of marking of the award in the aforesaid reference;

were not absorbed in the regular cadre of workmen by the management. The demand notice by the Dalmia Dadri Cement Factory Mens Union which they gave on 7th January, 1964 required the management to absorb the aforesaid persons in their regular cadre. The management on the other hand absorbed in their service five new workmen who were brought into the picture with effect from 1st January, 1964 by the introduction of Jai Ram as a contractor. The Mens union and the workers whom they represented are evidently aggrieved of the aforesaid action of the management and after giving careful consideration to the matter I feel that they are justified in making the aforesaid grievance. The contract system must be deemed to have been abolished on either of the three dates which have been specified above and cannot at any rate be taken to have remained in operation after the award in reference No. 45 of 1961, had come into force. The workmen working at that time on the said contract system deserved to be brought in the regular employment of the management and they should have been so brought. The case of the Mens Union is that such workmen were 10 in number and their names are specified in Annexure 'C' and 'D' to the notification making the reference. Apart from the bare statement of Shri Daya Kishan General Secretary of the Mens Union there is no other evidence to prove that all the 10 of them were in employment at the relevant time. Only seven of them have filed their affidavits and they are (1) Sadhu Ram contractor, (2) Nand Lal, son of Bhanuba Ram (3) Rahmal Dass (4) Jinda Ram, (5) Nand Lal, son of Bhanu Ram, (6) Sidhu Ram, son of Krishan and (7) Parbhu Dayal, son of Bhallu. Only two of the above were called for cross examination by the management and they are Sadhu Ram and Nand Lal, son of Bhanu Ram. Nothing substaintial has been brought out in their cross examination and I have no reason at all to disbelieve the aforesaid seven persons. The management having already abolished the contract system it is not necessary for m

The 14th August, 1967.

K.L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 911, dated Chandigarh the 16th August, 1967.

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by Section 15 of the Industral Disputes Act, 1947.

K.L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

The 26th August, 1967

No. 7407-I-Lab-67/24626.—In supersession of Punjab Government notifications No. 2756-S-LP-56/42233 dated the 23rd May, 1956, No. 1608-II-Lab-II62/5682, dated the 25th February, 1962 and all other notifications issued in this behalf, and in exercise of the powers conferred by section 74 of the Employees' State Insurance Act, 1948 read with rule 4 of the Punjab Employees' Insurance Court Rules, 1951, the Governor of Haryana is pleased to constitute the Courts specified in column 2 of the Schedule below as Employees' Insurance Courts for the areas specified in column 3 thereof against each such Court and to appoint the Subordinate Judges of the Courts specified in column 2 of the said Schedule as Judges of Employees' Insurance Courts so constituted:

SCHEDULE

S. No.	Name of the Court	Jurisdiction
1	2	3
1. 2. 3. 4. 5.	Subordinate Judge, 1st Class, Gurgaon Subordinate Judge, 1st Class, Rohiak Sub-Divisional Officer, Bhiwani Subordinate Judge, 1st Class, Ambala Subordinate Judge, Ballabhgarh	Gurgeon Rehtek and Behacurgeth Bhiwari and Charkhi Dacri Ambala and Pinjore Faridabad, Mathura Road (Faridabad) and Ballabhgarh

P. N. BHALLA,

Secretary to Government, Haryana, Labour and Employment Department.